



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 00858-00
25 May 2000

CWO [REDACTED] USN RET
[REDACTED]

Dear Chief Warrant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the memorandum furnished by the Navy Personnel Command (NPC) dated 5 May 1999 with enclosure and the NPC advisory opinion dated 31 March 2000, copies of which are attached. The Board also considered your letter dated 11 May 2000.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. They were unable to find you would have been promoted to CWO3, if your fitness report record before the regular Fiscal Year 96 CWO3 Selection Board had been complete. In this regard, they were unable to find that had the regular promotion board selected you despite your civil conviction, as the special selection board did, your selection would have been approved on review. Since the Board found insufficient basis to grant your request for promotion, they had no grounds to set aside your retirement and return you to active duty. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

858-00

1426

Ser 833D/0134

5 May 99

From: Chief of Naval Personnel

To: CWO2 [REDACTED] USN (P [REDACTED])

Subj: SPECIAL PROMOTION SELECTION BOARD ICO CWO2 [REDACTED]

Encl: (1) SECNAV memo of 21 Apr 99

1. You are hereby notified that the Secretary of the Navy has disapproved the FY-96 Chief Warrant Officer Special Promotion Selection Board. Enclosure (1) pertains.
2. When the Special Board convened, you were in a retired status and were therefore ineligible for consideration by the FY-96 Chief Warrant Officer Special Promotion Board. Since the Secretary of the Navy became aware of your ineligibility, he disapproved the FY-96 Special Promotion Selection Board that recommended you for promotion.

[REDACTED]

for By direction

858-00



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20350

21 April 1999

MEMORANDUM FOR CHIEF OF NAVAL OPERATIONS

Subj: SPECIAL PROMOTION SELECTION BOARD [REDACTED]
[REDACTED] USN (RET) [REDACTED]

Ref: (a) CNP memo of 6 Nov 98

Encl: (1) OJAG memo 1400 Ser 13/1MA11465.99 of 9 Apr 98

Reference (a) forwarded a recommendation to remove Chief Warrant Officer (W2) [REDACTED] name from the report of a Fiscal Year 1996 Chief Warrant Officer Special Promotion Selection board convened on 14 November, 1996, and approved by the Secretary of the Navy on 25 April 1997.

As discussed in reference (a), [REDACTED] was in a retired status when the special board convened. As a result, he was ineligible for consideration by this board (enclosure (1)). Because the Secretary of the Navy was unaware of CW02 [REDACTED]'s ineligibility when he approved the board in 1997, I am now disapproving the Fiscal Year 1996 Special Promotion Selection Board that recommended [REDACTED]'s promotion.

[REDACTED]
[REDACTED]
[REDACTED]
Secretary of the Navy



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

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5420
PERS 85
31 Mar 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: CW02 [REDACTED] Y, USN(Ret) [REDACTED]

Ref: (a) SECNAV memo of 21 April 1999

Encl: (1) BCNR File

1. Enclosure (1) is returned. [REDACTED]'s record was reviewed before the FY-96 Special Promotion Selection Board and he was selected. His promotion was subsequently deferred due to a civilian conviction for the offense of driving under the influence of alcohol.
2. During legal review of the deferral it was determined that because [REDACTED] was in a retired status when the special board convened, he was ineligible for consideration by the special board. The Secretary of the Navy was unaware of CW02 [REDACTED] ineligibility when he approved the board in 1997. Once the Secretary became aware of [REDACTED]'s status, he disapproved the FY-96 Special Promotion Selection Board that recommended him for promotion. A determination of the original deferral had not been concluded at the time of the disapproval.
3. Recommend his request be disapproved.

[REDACTED]
BCNR Liaison, Officer Promotions and
Enlisted Advancements Division